

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSE ROMERO VILLANUEVA, ET AL
Plaintiffs

CIVIL NO. 97-2108 (DRD)

v.

Taxation of Costs

PUERTO RICO ELECTRIC POWER AUTHORITY,
ET AL,
Defendants

ORDER

On September 5, 2002, a judgment was entered dismissing the complaint filed in this case (Docket No. 169). Accordingly, defendants moved for taxation of costs (Docket No. 171). Plaintiffs did not oppose to defendants' bill of costs, but filed a notice of appeal on October 17, 2003 (Docket No. 179).

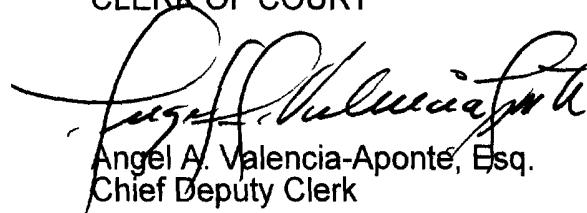
"It is often sound policy ... to wait until a controversy is finally decided on the merits before awarding costs, and to then determine who is the 'prevailing party', instead of judging that issue piecemeal at each stage of the litigation." Furman v. Cirrito, 782 F.2d 353, 355-56 (2nd Cir. 1986). Thus, a district court "may wait until a judgment is affirmed on appeal before awarding costs." O'Ferral v. Trebol Motors Corp., 45 F.3d 561, 564 (1st Cir. 1995), citing 10 C. Wright & A. Miller, Federal Practice and Procedure § 2668, at 212 (2d Ed. 1983).

WHEREFORE, defendants' application for taxation of costs is denied without prejudice. Once judgment on appeal is entered and the appellate mandate becomes final, the prevailing party may file a bill of costs for adjudication by the Clerk. Fed. R. App. P. 39; Fed. R. Civ. P. 54(d).

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 4th day of December, 2003.

FRANCES RIOS DE MORAN
CLERK OF COURT


Angel A. Valencia-Aponte, Esq.
Chief Deputy Clerk

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